

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
5:10-MJ-1579-JG-1

UNITED STATES OF AMERICA

v.

MICHELLE M. DAVENPORT,

Defendant.

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ORDER

This case comes before the court on the motion (D.E. 4¹) of the government to dismiss without prejudice the criminal information (D.E. 1) filed against defendant on 13 July 2010. The sole basis cited by the government for dismissal is “prosecutorial discretion.” Such a basis is inadequate to allow the court to apply the standard for dismissal on a motion of the government set forth in Federal Rule of Criminal Procedure 48(a) and applicable case law. *See United States v. Goodson*, 204 F.3d 508, 512 (4th Cir. 2000) (holding that “the court must grant the government’s Rule 48(a) motion unless the court concludes that to grant it would be clearly contrary to manifest public interest, determined by whether the prosecutor’s motion to dismiss was made in bad faith”). Accordingly, the motion is DENIED WITHOUT PREJUDICE to file a renewed motion setting forth sufficient information from which the court can make a determination under the applicable standards.

SO ORDERED, this the 17th day of April 2014.


James E. Gates
United States Magistrate Judge

¹ The motion, which was originally filed at D.E. 3, was refiled at D.E. 4 to include the certificate of service, which was omitted from D.E. 3.